

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF PARKWOOD) APPEAL NOS. 07-A-2408
II L. P. AND PARKWOOD PLACE L. P. from the) AND 07-A-2409
decisions of the Board of Equalization of Kootenai) FINAL DECISION
County for tax year 2007.) AND ORDER

COMMERCIAL PROPERTY APPEALS

THESE MATTERS came on for consolidated hearing November 8, 2007, in Coeur d'Alene, before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Julie Hyatt appeared at hearing for Appellants. Chief Deputy Assessor Richard Houser and Appraiser Louise Weed appeared for Respondent Kootenai County. These appeals are taken from a decision of the Kootenai County Board of Equalization (BOE) denying the protests of the valuation for taxing purposes of property described as Parcel Nos. R43910010020 and Parcel No. R43910010010.

The issue on appeal is the market values of two rent-restricted tax-credit apartment complexes.

The value decisions of the Kootenai County Board of Equalization are modified.

FINDINGS OF FACT

Parcel No. R43910010020 (Parkwood II)

The BOE assessed land value is \$692,428, and the improvements' valuation is \$2,278,630, totaling \$2,971,058. Appellant requests the land value remain at \$692,428, and the improvements' value be reduced to \$1,969,843, totaling \$2,662,271.

Parcel No. R43910010010 (Parkwood Place)

The BOE assessed land value is \$626,418, and the improvements' valuation is \$2,297,832, totaling \$2,924,250. Appellant requests the land value remain at \$626,418, and the

improvements' value be reduced to \$1,528,237, totaling \$2,154,655.

The subject property is two separately owned and operated rent-restricted, low-income tax credit apartment complexes (a.k.a. Section 42 housing projects.) Parkwood II has 36 units located on 3.532 acres, and was placed in service in November of 2005. Twenty-nine (29) units are rent-restricted. The balance are market rate units. Parkwood Place also has 36 units. The land size is 3.196 acres and the improvements were built in 2004. Thirty-five (35) units are rent-restricted and one unit is utilized by the manager.

At hearing, Appellants presented for the first time, an issue regarding subjects' land values. Land value errors were not asserted prior to hearing and the presiding officer struck the issue and related evidence from the record where the County could not have foreseen or reasonably prepared for the issue. Regardless the information had timeliness issues or was dissimilar to the subject sites which were improved and committed to a specific use.

Appellants contended certain corrections were necessary in using the County's special valuation model for Section 42 housing projects. In the cost approach, it was argued an additional 10% must be allowed for functional obsolescence. This proposed obsolescence factor was to reflect a relative lack of liquidity and the heavier regulation associated with Section 42 apartments. The County's special depreciation allowance was characterized to reflect only economic obsolescence.

In the income approach, it was asserted that actual expenses should be considered versus normalized expenses. Further the capitalization rates used by the Assessor were asserted to be too low in relation to the inherent risk. The correct direct capitalization rate should have been 7.8% and the correct discount rate 8%. The direct rate was based on an older fee

appraisal (preconstruction) where a number of 2002 and 2003 market rate apartment complex sales were studied. Indicated rates ranged from 7.19% and 8.63%. A copy of the complete fee appraisal was not submitted into evidence.

Appellants also contended that for an established complex, more weight or exclusive weight should be given the income approach, but acknowledged on a newer project (Parkway II) some consideration could be given the cost approach to value. As part of Taxpayers' value case, numerous details were presented concerning operational factors and associated expenses relating to Section 42 housing.

Respondent presented relatively thorough written appraisals for each subject. The values presented at hearing reflected a certain correction, which the County requests the Board adopt, where it favors the Taxpayers. The Taxpayers, notwithstanding their own value cases, asked that the Assessor's corrections be applied across the Board to keep the valuations consistent.

On appeal, the County values considered all three approaches to value on each project. The valuations significantly conformed to a model developed by Idaho's assessors following public input and rulings of the Supreme Court concerning Section 42 housing projects. Taxpayers were given the choice of using this model if they provided the necessary information or having the projects valued like market-rate apartments. This is where the County correction is warranted. Originally based on incorrect information, Appellants desired to have subjects valued as market-rate apartments. Based on the County's actual final model values, Appellants now opt for the Section 42 model values which collectively would result in reduced taxes. Taxpayers were permitted, post-hearing, to submit written value calculations in support of the value claims.

In the Assessor's income approach (Section 42 model), actual rents were considered together with the discounted value of remaining future tax credits. Operating expenses were normalized – a judgment Appellants take exception to. The capitalization (and discount) rate was based on indicated market rates from local and national data sources. The County's capitalization rate information was considerably more current than that proposed by Appellants. Respondent's capitalization rate for both projects was 6.3%. The discount rate used to value the remaining tax credits was 6%.

In the Assessor's reconciliation, the least weight (5%) was placed on the market approach due to a dearth of good comparable sales information. The income approach was weighted at 70%. The cost approach was reduced by a special obsolescence factor calculated from an analysis of the restricted rents.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Special considerations pertain to the assessment of the subject apartment complexes where they are Section 42 housing. Idaho Code § 63-208; *Greenfield Village Apts., L.P. v. Ada County*, 130 Idaho 207, 938 P.2d 1245 (1997); *Brandon Bay, L.P. v. Payette County*, 142 Idaho 681, 132 P.3d 438 (2006). The market value standard still applies. Idaho Code §§ 63-205(1), 63-201(10).

The parties considered the special operating nature of the subject properties in the value

cases presented. Appellants' cases sought to change certain inputs or judgments present in the County modeling. Independent appraisals were not presented. On taxpayers' differences from the Assessor, the correct capitalization rate and the proper weight to be given multiple value indications, the Board found the County analysis more complete and better supported. On the issue of using actual versus normalized expenses, Appellants likewise did not persuade the Board that their method was preferable to the County's.

In conclusion, the Board does not find that Appellants' evidence has demonstrated over-assessment of the subject complexes. Nor was another error proven. Idaho Code § 63-511(4). The County assessments were based on a significant amount of information that was reasonably analyzed into final determinations of market value. The assessments were tailored around subjects' status as rent-restricted, low-income tax credit apartments. Taxpayers' preference that the "corrected" model values from the Assessor be adopted will be recognized. Therefore the Board will modify the value decisions of the Kootenai County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decisions of the Kootenai County Board of Equalization concerning the subject parcels be, and the same hereby are, MODIFIED to reflect the final values below. The indicated value changes apply to the improvements' values.

<u>Parcel No. (Project)</u>	<u>Ordered Value</u>
R43910010020 (Parkwood II)	\$2,972,656 (increased)
R43910010010 (Parkwood Place)	\$2,648,794 (decreased)

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from

Appellant(s).

MAILED April 3, 2008